

1894-031 Chancery Causes: George W. Gibson vs. Louisville & Nashville Railroad Co]
Lee Co.

CA - Contract Dispute
T - Property
Transportation

1 To the Hon. H. S. K. Morison
2 Judge of the Circuit Court of
3 Lee County Virginia:

4 Your orator George W. Gibson
5 who humbly complaining
6 would respectfully represent
7 that heretofore on the 25th, day of
8 September 1889, your orator made
9 and executed a deed, for right
10 of way to the Louisville and
11 Nashville Rail Road Company
12 through and over his lands sit-
13 uated in this County, and fully
14 described in a copy of said
15 deed, herewith filed as a
16 part hereof "marked... A". By
17 an inspection thereof it will
18 be seen that the consideration
19 of said deed, consisted in
20 several things. One of which
21 was that said Company fence
22 its track through said lands; and
23 make a good crossing, west of
24 your orators house; and one north
25 of his barn which ~~was~~ situated
26 east of his dwelling house; with
27 good cattle guards on each side
28 of said farm; and an other cross-
29 ing east of said house (dwelling)
30 where the road leading from the
31 stable to the creek will cross
and cross so cross said Railroad

1 and at this Crossing said Company
2 was to erect or construct gates on each
3 side of said Railroad, and make
4 a gate between the house and spring
5 And they were fully to protect
6 said spring from injury.

7 For the injury done to said
8 spring no relief is here asked as
9 an action at law is now pend-
10 ing for that.

11 Your orator would here state
12 that he is an illiterate man
13 and can not write or read
14 writing; and when said deed
15 was presented to him he had
16 to depend upon the reading of
17 it by others. At the time it
18 was so executed, the fact that
19 ships of 50 feet or conveyed as
20 afore said passed between your
21 craters two springs, one the main
22 one from which he obtained
23 his supply of using water for
24 family use, lay upon the north
25 of said Rail road track and on
26 the opposite side of said road
27 from his dwelling. It was a
28 large bold and good spring and
29 near his dwelling and the only
30 spring which he had that afforded
31 him constant using water the

1 after on the south side of the
2 Rail road and nearest the house
3 becoming hot and useless in the
4 summer and going entirely dry in
5 the summer & fall seasons. So that
6 to secure the use of the spring on
7 the north of the railroad was
8 and is an object of great impor-
9 tance. It was his contract at the
10 time, and he required it to be put
11 in the deed that this spring on the
12 north of the rail road, was to
13 be piped under or over said
14 road bed to the south side so
15 that your crater, his family and
16 servant would not have in
17 their daily and constant use of
18 said spring to cross the railroad
19 And on the day he signed said
20 deed, when it was read over
21 to him it was read to him "that
22 the spring was to be piped over
23 to the south of the rail road track"
24 And the said company, actually
25 commenced to cut a ditch for that
26 purpose, when it found it
27 could not do so, as it had
28 utterly destroyed the spring then
29 it was your crater came to the
30 clerks office and had his deed
31 read to him when he was greatly
surprised to find that there was

1 nothing in it about pissing
2 said spring over. Your crator
3 will be abundantly able to
4 prove that the deed was so
5 read to him, without which
6 he never would have signed it.
7 He therefore alleges that as to this
8 much of said deed the same
9 was mis-read to him, and that
10 was clearly understood and
11 agreed by the agent procuring
12 said deed and your crator that
13 this clause was to be and your
14 so believed it to be in the deed
15 when he signed it.

16 The said road has completed
17 its track and now daily runs
18 its train cars and engines over
19 the same, yet has not fenced
20 the same, ~~nor~~ nor made any
21 cattle guards, gates, or crossings
22 such as are provided for in
23 said deed nor included any
24 at all. The failure to do which
25 is greatly to the prejudice of
26 your crators right. This deed
27 which has been accepted and
28 recorded by said road, has
29 not upon its part been com-
30 plied with, but it has wholly
31 failed and still fails to fulfill
and perform these things partly to

1 Consideration of the same.

2 The object of this bill therefore
3 is to have said Contract and deed
4 corrected and reformed so as to read
5 as it was read to your orator
6 when he signed it that is to have
7 inserted in it that the "Spring on
8 the north side of said Railroad
9 track should be piped over to the
10 south thereof" and then that
11 the same so reformed be specif-
12 ically performed upon the part
13 of said Company, your orator
14 having fully kept and performed
15 the same upon his part.

16 But if your orator should be
17 mistaken in the relief in the
18 Correction & reformation of said
19 deed to which he conceives himself
20 entitled, then the further object
21 of this bill is to compel said
22 Railroad Company to specific-
23 ally perform the same as it
24 now is that is to fence its track
25 through said land, and put
26 up the cattle guards, gates and
27 crossing setout and enumerated
28 in said deed and exhibit.

29 To affect which your orator
30 prays that the Louisville and
31 Nashville Railroad Company

1 he made a party defendant
2 to this bill and answer the same
3 and file with it; answer the
4 original decree, the copy of which
5 is here filed. But it need not
6 answer upon a bill that being
7 expressly waived.

8 That on a hearing said deed
9 be so reformed and corrected as
10 to read in addition to its present
11 terms, "and the said Company is to
12 pipe (carry through pipes) the water
13 from the spring on the north of said
14 road, to the south side of the same."

15 That a decree be made requiring
16 ~~that~~ the defendant Company to
17 so pipe it and to make and
18 construct the cattle guards, crossings,
19 fences & gates so set out in the
20 deed aforesaid. And for all
21 other further and general re-
22 lief to which he may be en-
23 titled. May upon issue &c.

24 A. L. Pridmore

25 P. G.
26
27
28
29
30
31

George W. Gibson

Bill Chy

L. & R. R. Co

1891, 1st May Rules Bill
Filed Spd Granted to D. W. H.
" 2nd May Rules Counted
" 1st & 2nd June Rules "
" 1st & 2nd July " "
" 1st Aug Rules Counted
" 2nd " " D. W. H. Confd
+ Cause set for hearing
by Plaintiff Counsel

1894 March Term
Decree signed

March 9th 1894
D. W. H. 558

Costs paid

George W. Gibson,

Plaintiff

vs.

In Chancery.

Louisville and Nashville Railroad Co. Defendant.

By agreement of parties this cause is dismissed each party paying
his own costs.

George W. Gibson

vs. Decree Final.

L. & N. Railroad Company.

ECOR Page 55-8

MCH 9th 1894

Enter this

March 9th 1894

H S W M

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

Louisville
and Nashville Railroad
Company an incorporation
doing business in Va

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday
in *May 1891* next, being rule day to answer a bill in Chancery exhibited in our said Court
against *it*

by

George W. Gibson

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This *10th* day of *May* 1891, in the 11th year of the Commonwealth.

A Copy Teste

J. A. G. Hyatt

J. A. G. Hyatt Clerk.

19
George W. Gibson

vs Spain Chcy

L. H. R. Leo.

To 1st May Rules 1891.

Executed May 1st 1891
by delivering an Office
copy of the within sums
to C. J. Duncan

W. D. Sprinkle Deft
for A. B. Muncy S & C